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List of issues and questions in relation to the seventh periodic report of Malawi

Addendum

Replies of Malawi**

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Introduction

Issue 1

1. The Government of Malawi is taking measures to disseminate the Gender Equality Act No. 3 of 2013. The Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW) is implementing the Gender Equality and Women's Empowerment (GEWE) Programme, which, amongst other indicators, is focusing on advocacy for the enactment and implementation of several gender related laws. Apart from the programme's significant contributions to advocacy towards the enactment of the Gender Equality Act in 2013, the programme is funding the popularisation of the Act and other laws such as the Prevention of Domestic Violence Act (Chapter 7:05 of the Laws of Malawi); Deceased Estates (Wills, Inheritance and Protection) Act No. 14 of 2011; the Marriage, Divorce and Family Relations Act of 2015 and the Trafficking in Persons Act of 2015. In 2014, 100 law enforcement officers (comprising of Police officers, Social welfare Officers, Health Workers, Magistrates and Community Development Officers) from 13 districts were trained on all the existing gender related laws. This year (2015), the Ministry has repackaged these Gender related laws into flyers and booklets to facilitate their wide dissemination. In particular, the Gender Equality Act flyer will be disseminated to Government Ministries, departments and agencies — especially those that are charged with the task of implementing various components of the Act. These include the education and health ministries, District Social Welfare Offices, Department of Human Resources, Malawi Human Rights Commission, Police, NGOs and the private sector. The Act will also be translated into local languages.

2. Malawi Government and its stakeholders are undertaking active efforts to ensure that there is on-going, on-the-job, capacity building of personnel in these justice delivery structures in order to strengthen their capacity to support women's rights. Ministry of Gender, Human Rights Commission have trained and sensitised judges, lawyers and prosecutors on issues related to violations of women rights and sexual reproductive health rights (SRHR). This initiative has also been popularised by some civil Society Organisation such as the Women Judges Association of Malawi (WOJAM) and Ipas Malawi. WOJAM has worked to strengthen women's rights through studies and trainings of women judges, women in the Judiciary in general and communities. Ipas Malawi has worked with a group of lawyers from Women Lawyers Association and Malawi Law Society to promote women's SRHR in accordance with international human rights standards and the Gender Equality Act. University of Malawi through Chancellor College has also introduced a gender and law course as one of the subjects for law students. The NGO Gender Coordinating Network (NGO GCN), which has a permanent committee on gender related laws, has contributed to the availability of information, including repackaged laws and training manuals on some gender related laws for the use in trainings of judges and police victim support personnel in various NGO projects. The Ministry of Gender is working towards harmonisation of all these efforts to ensure wider popularisation.

3. The National Gender Policy (currently not yet adopted) is an operational tool of the Gender Equality Act. The Trafficking in Persons Act No. 3 of 2015, recently passed on 25 February 2015, is also directly responding to (trafficking) as one of the challenges that the National Gender Policy directly intends to deal with. The MoGCDSW is taking steps to ensure the adoption of the National Gender Policy,

which has since been discussed by the relevant cabinet committee, and is awaiting full cabinet approval.

Issue 2

4. Different interventions are being undertaken in order to enhance rural women's capacity to enforce their rights, particularly in civil matters and in areas covered by the Gender Equality Act. The MOGCDSW trained its frontline staff (District Social Welfare officers and Community Development Officers) on gender related laws in 2014. These officers are carrying out awareness campaigns for both women and men using existing structures such as Community Victim Support Units, Village Saving Loans, Women Forums and Community Based Organizations (CBOs) to ensure that women are able to demand their rights and men are modelled to respect women rights. Interventions by NGOs use different forms of media to ensure that all women including those that are illiterate are able to benefit. Examples include theatre for development and edutainment strategies. Furthermore, the REFLECT methodology is regularly used by NGOs to empower illiterate rural women to know and claim their rights from duty bearers, while at the same time equipping them with literacy and numeracy skills.

5. The Human Right Commission is also taking steps to ensure that rural women's SRHR are being protected and promoted. In December 2014, the Commission conducted a "Public Inquiry for the Realisation of SRHR in Malawi." The findings will further empower women particularly rural women to claim their rights. The Commission also operates legal clinics.

6. The Legal Aid Bureau became operational on 16 March 2015 after the appointment of its Director. The Bureau is an independent body, and the Director is the controlling officer who is answerable to Parliament. It has decentralized operations, currently with offices in the major cities of Lilongwe, Blantyre, Mzuzu and Zomba. The plan is that the Bureau will have offices in all 28 districts, and this will be done in phases, beginning with 10 districts. In terms of human resources, apart from the Director, there are 9 lawyers, 20 paralegals and 17 support staff. There is definite need to improve the numbers of qualified staff in all positions, and budgetary proposals have been made to this effect for the 2015/16 financial year. Meanwhile, financial resources have been inadequate since the Bureau has been running on a budget that was inherited from its predecessor structure that was a department located within the Ministry of Justice. However, when fully operational and resourced, the Bureau is expected to address the huge gap of accessibility of legal aid services by those mostly in need of such services. The Bureau will provide legal aid and work in liaison with Civil Society Organizations and other relevant bodies, it will undertake research in various aspects of legal aid, and be responsible for the preparation of reports and recommendations to the Minister.

7. Most customary justice systems are functioning satisfactorily because of extensive efforts, especially through NGOs to build their capacity on issues that affect the rights of women and girls. As a result of these efforts, there is increased action by traditional leaders to adopt by-laws addressing harmful practices and other vices that are affecting the development of women and girls. It is clear from these successful interventions that nationwide efforts to ensure the capacity building of all chiefs are necessary. The customary justice system functions effectively alongside the formal justice system, and it helps justice to be more accessible to women,

especially when the chiefs themselves are empowered to discharge justice using human rights based approaches.

Issue 3

8. Malawi continues to create an environment where there is unfettered debate on these topics. This approach is allowing people to become more knowledgeable about, and take informed positions on the issues. Given the huge controversy surrounding LGBT rights in Malawi, Government believes that steps to decriminalize the law would have to be driven by citizenry demands that are backed up by a detailed consultative process that is in line with the views, opinions and beliefs of the people of Malawi.

Issue 4

9. Measures are being taken to strengthen the capacity and authority of the MoGCDSW. A structure review was undertaken and approved in 2014, and key positions will be up-graded and/or created from the national to the district level. Currently, the Ministry is working in collaboration with the Office of the President and Cabinet and the Treasury to implement recommendations of the review structure in order to create strong institutional mechanisms for the promotion of gender equality and women empowerment in Malawi. Furthermore, with the support of development partners, the MoGCDSW is investing in the capacity building of its staff. For example, several staff members are enrolled in the degree programme on social work and gender at the Lilongwe University of Agriculture and Natural Resources that commenced in 2013, and some have been attending short courses at the University of Pretoria and in Iceland, among others.

10. The MoGCDSW has been strengthening coordination mechanisms as a way of ensuring effective gender mainstreaming across all government agencies. The MoGCDSW has led the establishment of a sector wide approach (SWAP) of the Gender, Children, Youth and Sports Sector Working Group (GCY&S SWG). Guided by the Joint Sector Strategic Plan (JSSP, 2013-17), the GCY&S SWG has a multisectoral Gender Technical Working Group, and is coordinating gender interventions in all relevant sectors. This Gender Technical Working Group also participates in other Technical Working Groups of other SWAPs. The idea is to ensure that issues of gender mainstreaming are advanced in the SWAPs that exist throughout the government machinery. In addition, Technical Working Groups, which have a component of gender and integrated community development, are present at district council level.

11. The MoGCDSW cooperates with a full range of civil society and women's organisations (including youth organisations) at national and community level by virtue of its mandate (through the Department of Social Welfare) to coordinate all NGOs in the country through their various networks. This is achieved by closely working with structures such as the NGO Gender Coordinating Network, Council for Non-Governmental Organisations (CONGOMA), and other networks that exist in the areas of agriculture, education, girl education, child marriage etc. And by virtue of being part of the Gender, Children, Youth and Sports Sector Working Group, the Ministry also cooperates with youth organisations through the leadership of the National Youth Council. Generally, the establishment of this Sector Wide

Approach has created a forum for negotiations, policy dialogue and agreements on plans among Government, development partners, private sector and NGOs.

12. In relation to measures that are being taken to increase the capacity of the Malawi Human Rights Commission to enforce the Gender Equality Act, the Gender Equality and Women's Empowerment Programme (being coordinated by MoGCDSW with funding from European Union and technical support from UNFPA) supported the Commission to develop an Implementation and Monitoring Plan for the Gender Equality Act, 2013. The Implementation and Monitoring has been finalised and will be costed to ensure that all the provisions in the Gender Equality are implemented. The Commission has also established Gender Thematic Group for the judiciary as one way of strengthening enforcement structures for the Act. HRC continues to lobby for adequate funding from Government that can enable it to fully discharge its enforcement role under the Gender Equality Act.

13. The division of the roles and responsibilities between the national machinery and the Human Rights Commission in the implementation and monitoring of the Gender Equality Act, as well as mechanisms for cooperation between the two entities, is clear:

14. According to the Act, the Malawi Human Rights Commission is responsible for enforcing the provisions of the Act and protecting and promoting gender equality by:

(a) Monitoring and evaluating the policies and practices of (a) State organs, State agencies and public bodies; and (b) the private sector, in order to promote gender equality and make any necessary recommendations;

(b) Carrying out investigations and conducting searches in relation to any gender issues either on its own volition or upon receiving a complaint;

(c) Considering, deliberating on and making recommendations to the Minister on any gender issues;

(d) Providing information to any party in a gender dispute on rights, remedies or obligations;

(e) Promoting and facilitating access to remedies for any dispute concerning gender issues;

(f) Promoting the ratification by Malawi of any international gender instruments; and

(g) Collaborating with the Minister in establishing mechanisms aimed at progressively realizing gender equality;

(h) Developing working relationships with international partners, civil society organizations and Non-Governmental Organizations devoted to protecting and promoting gender issues; and

(i) Doing or performing any other duties as are necessary for the implementation of this Act.

15. On the other hand, the specific responsibilities of MoGCDSW relate to designing and implementing programmes for the public awareness of the Act, which specifically include:

(a) Developing programmes aimed at promoting gender equality in all spheres of life;

(b) Developing programmes that create awareness of fundamental human rights, equality and mutual understanding and respect;

(c) Developing programmes that create awareness of sexual harassment and providing assistance and social support for victims of sexual harassment;

(d) Enlisting the services of traditional leadership and Non-Governmental Organizations in disseminating information and in the conduct of any other activities connected with such programmes; and

(e) Recruiting public officers that are required to carry out activities for the implementation of the respective programmes.

Issue 5

16. There is increased action to change public attitude and social and cultural patterns that lead to gender stereotyping in relation to the roles of women and men in the family, the community and the society at large. Apart from diverse efforts that are being supported by different development programmes through NGOs, the MoGCDSW is working through 10 NGO implementing partners (including women's rights organisations) in 13 pilot districts in Malawi under the GEWE Programme. These NGOs are increasingly recognising that a 'household programming' approach will make the most difference in transforming negative attitudes and patterns, and are targeting the family in their interventions to promote girl education, address gender based violence and harmful practices generally. They are also strengthening community action by working directly with men's groups, community action groups, mother groups and others. At community level, traditional leaders are also being put at the centre of interventions, and are championing change. Malawian Chiefs were oriented and adopted the Chiefs Declaration of Commitment. Most of the chiefs have by-laws that are ensure to discourage practices that violate women rights particularly girls. The MGCDSW is also promoting a HE for She campaign as part of the process of promoting women rights. The GEWE programme is also working with district level and national level structures in order to facilitate attitude change of duty bearers and promote more gender responsive work ethics.

17. With regards to men's groups, a key structure that is facilitating change is the Men for Gender Equality Network (MEGEN), which believes that change can best be achieved by making men part of the movement that can confront power structures to which most of them belong. Thus MEGEN has increased male involvement as change agents in the fight against gender-based violence, especially that it has close to a membership of 50,000 men across various structures of power, such as police, army, academia, religious leaders, traditional leaders etc. Thus MEGEN has created greater awareness amongst men, who are now able to challenge themselves and adopt positive masculinities by promoting gender equality and gender based violence eradication through: community education and training; men to men support groups; male role modelling; community rapid response; and men's traveling conferences during sixteen days of activism (whereby each year, three coaches carry 60 men and go across the country to sensitise and facilitate dialogues in rural trading centres). MEGEN advocacy campaigns have helped to uncover and

address cases related to rape, child marriage and other acts of violence in some remote communities.

Issue 6

18. The Gender Equality Act has been formulated to capture any harmful practice without tying itself to particular forms. And due to its interest to protect children from harm, the Child Care, Protection and Justice Act has specified certain forms of harmful practices that particularly affect the girl child such as violence against girls in schools, homes, child marriages, trafficking among others. But even where not explicitly covered, other forms of harmful practices against children would still be addressed under the broader approach of the Gender Equality Act. The following is how harmful practices are addressed in the two laws:

19. Child Care, Protection and Justice Act provides that:

- No person shall subject a child to a social or customary practice that is harmful to the health or general development of the child.
- No person shall force a child into marriage; or force a child to be betrothed.
- No person shall sell a child or use a child as a pledge to obtain credit; use a child as surety for debt or mortgage; or force a child into providing labour for the income of a parent, guardian or any other person.
- A person who contravenes the above provisions commits an offence and shall be liable to imprisonment for ten (10) years.

20. Gender Equality Act

- It defines "harmful practice" as a social, cultural or religious practice, which, on account of sex, gender or marital status, does or is likely to undermine the dignity, health or liberty of any person; or result in physical, sexual, emotional or psychological harm to any person.
- It prohibits any person from committing, engaging in, subjecting another person to or encouraging the commission of *any* harmful practice.
- Any person who violates the law commits an offence and is liable to a fine of one million kwacha (K1,000,000) and to imprisonment for five (5) years.

21. Harmful practices are being tackled on several fronts. First, there is recognition that programmes should do more to empower men and mothers/female guardians so that these can ensure that gender stereotypes and harmful practices that are upheld at domestic level and that hold girls back are not sustained. Second, many traditional leaders are working hand in hand with NGOs to challenge community systems that promote harmful practices and are enforcing by-laws within their communities. Many by-laws are addressing child marriage by imposing fines on families that perpetrate the practice, as well as penalizing chiefs that are failing to enforce the by-laws in their communities. Female traditional leaders are particularly standing out. For example, the commemorations of the 2014 International Day of the Girl Child and the national launch of the End Child Marriage Campaign took place in Traditional Mwanza's area in Salima district, because this is a chief that has produced outstanding results in addressing child marriage and other harmful practices in her area. Third, there is a clear message from the highest political level that harmful practices are intolerable. On 25 July

2014, the State President Professor Arthur Peter Mutharika became the first SADC Head of State to sign a commitment to end child marriages, which currently affect 50 per cent of girls below the age of 18 years in Malawi. And on 26 February 2015, he led fellow men in Malawi in the signing of a commitment to the He4She campaign, and declared himself as one of the champions of the campaign.

Table 1
Examples of practices were modified/eliminated/reduced under the WGHA Programme

Chitipa		*Mangochi*		*Ntcheu*		*Nsanje*	
Practice	Status	Practice	Status	Practice	Status	Practice	Status
Wife inheritance	Eliminated	Child betrothal	Reduced	Chief's blanket	Eliminated	Sexual cleansing after natural death	Modified
Child marriages	Reduced	Initiation of sexual cleansing	Eliminated	Polygamy	Reduced		
Polygamy	Reduced	Wife inheritance	Reduced	Initiation sexual cleansing	Eliminated		
Marrying off a girl in exchange for a debt	Eliminated	Sexual intercourse with hired man for procreation purpose	Eliminated				
Bonus wife	Eliminated	Initiation	Modified				

Source: WGHA Evaluation Report, 2012.

22. All harmful practices are unlawful under the Gender Equality Act, and these include the practices listed in the CEDAW Committee's list of issues, namely early and forced marriages, female genital mutilation, widow cleansing, ritual deflowering of young girls during initiation ceremonies, as well as the practice of encouraging young boys to have sex with older women and the practice of prescribing sex with girls or women with albinism as a cure for HIV. Extensive interventions that are taking place through NGO projects across the country to tackle localised forms of harmful practices in order to lobby for their eradication, modification or reduction as necessary. *Table 1* provides examples of practices that have been eliminated, modified or reduced after the implementation of a Women and Girls HIV and AIDS Programme (WGHA), which was finalised by MoGCDSW in 2011.Currently, the Ministry's GEWE Programme, which is on-going in 13 districts, promises more positive results. In relation to HIV related challenges faced by women and girls with albinism, the National Strategic Plan for HIV and AIDS

(NSP, 2015-2020) particularly isolate people with disabilities as a group warranting particular attention in the HIV response. Therefore, it is expected that NGO partners will implement the new NSP through more robust HIV interventions to protect women and girls with albinism from the practice of prescribing sex with them as a cure for HIV, and to target perpetrators.

Issue 7

23. Malawi Law Commission is about to conclude work on the review of the Act. A final national consultative stakeholder meeting was held in June 2015. Thereafter, it is expected that the report of the technical review will be released by the end of August 2015. As to whether the review process is now criminalising marital rape, it should be noted that the Prevention of Domestic Violence is a civil law and that while it has not created the crime of marital rape, it treats sexual abuse (by an intimate partners) as a form of domestic violence. As such, a married woman can seek any of the remedies under the Act for sexual abuse. On the other hand, the Marriage, Divorce and Family Relations Act No. 4 of 2015, provides that a husband who forces his wife to have sex with him while the two are on judicial separation will be guilty of the offence of rape.

Table 2
Nationwide GBV Cases, 2013 & 2014

Case description	*2013*	*2014*
Unlawful Divorce	482	1 112
Forced Marriage	131	186
Property Grabbing	48	410
Child Abuse	84	668
Failing to lender support to children	1 858	1 912
Defilement	250	584
Denying pregnancy	126	130
Early marriage	258	164
Forced marriage	112	164
Incest	4	18
Extra Marital affairs	1 120	1 888
Rape	42	82
Family Desertion	849	1 632
Common assault	698	1 518
Teen pregnancy	9	80
Wife/Husband Abuse	34	944
Total	**6 105**	**11 492**
Cases Mediated	4 274	8 274
Cases Referred	610	1 149
Cases Taken to Court	1 221	3 069

Source: *Malawi Police Service, June 2015.*

24. The number of cases of gender-based violence reported to the National Police Headquarters has routinely been disaggregated by sex, but not by marital status. Recommendations will be made to the national coordination unit of VSUs of the Malawi Police to consider the inclusion of the latter variable in the national data capturing template; as well as to routinely document results of GBV prosecutions at national level. *Table 2* shows that in 2013, the Malawi Police registered 6,105 cases, and in 2014, the number was at 11,492. About 90 per cent of these cases were reported by women. The police attributes the multiplication of the number of reported cases to increased levels of awareness of human rights violations amongst communities; as well as increased access to the police (through community policing forums) by communities. Out of the reported cases, 1, 221 cases (2013) and 3,069 cases (2014) were taken to court for prosecution. The rest were either settled through mediation or referred to other appropriate institutions (e.g. NGOs, labour office etc.) if they are civil cases.

25. The evidentiary requirement in sexual violence cases remains that the corroboration rule is still required as a matter of practice. This is not a legal requirement, but triers of fact must warn themselves on the dangers of convicting on the uncorroborated evidence of a victim of rape. The rule is being relaxed in its application of late. The Criminal Procedure and Evidence Code (Chapter 8:01), which was significantly amended in 2010, has also improved the gender responsiveness of the treatment of rape survivors as witnesses. Section 71A provides that where a victim of sexual violence is to give evidence in criminal proceedings, the court may, either on its own accord or through an application by a party to the proceedings, or a victim of a sexual offence, order one or more of the following:

(a) That the court should close while evidence is being given by the witness in the proceedings, including during the giving of evidence given under cross-examination;

(b) That no person should remain in or enter a room or place in which the court is being held, or remain within the hearing of the court, without its permission;

(c) That a screen, partition or one-way glass should be placed to obscure the witness's view of a party to whom the evidence relates;

(d) That the witness should be accompanied by a relative or a friend for the purpose of providing emotional support;

(e) That if necessary, the witness should give evidence outside the courtroom, which should be transmitted to the courtroom by means of a closed circuit television.

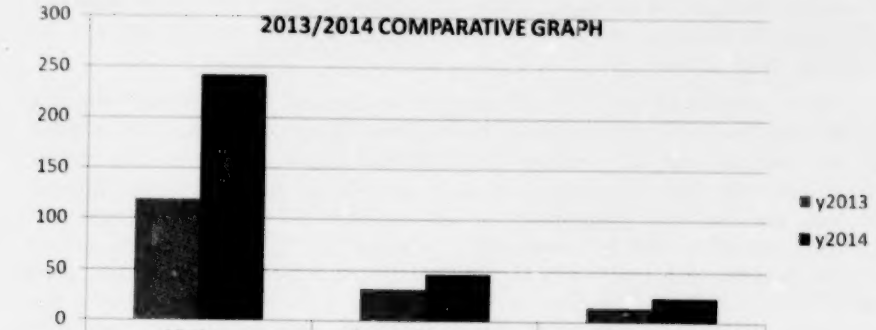
26. In order to enhance the effectiveness of measures to address rape and domestic violence, measures that involve the judiciary are being taken. For instance, Courts are required to treat applications under the Prevention of Domestic Violence Act as urgent and to make speedy resolutions. The courts are also rehabilitating structures to make them friendlier for victims of sexual assault. On the other hand, NGOs have been vocal in highlighting some deficiencies in the sentencing of sexual offences (rape and defilement) by Magistrates where these have occurred. One classic example occurred in January 2013, after First Grade Magistrate, Titus Banda, acquitted a 50 year old man who had defiled a 10 year old girl on account that "she

did not feel pain during the rape." Public condemnation and a petition by women's and human rights campaigners prompted the High Court to immediately call for review of the judgment.

27. An evaluation of the National Response to Combat Gender Based Violence (2008-2013) was conducted in 2014. Among other things, the evaluation revealed that the establishment of a network on GBV has improved coordination among NGOs, and that there is some progress in knowledge and awareness, attitude, reporting and outreach programmes related to VAW and GBV. There has been increased reporting both by media and survivors of GBV, as well as greater collaboration between police and Community Victim Support Units. Mobile legal clinics have also been established, especially in the 13 districts where the GEWE programme is being implemented. These areas are also establishing One Stop Centres in order to offer comprehensive support to survivors of GBV. On the other hand, it exposed that the lack of unified indicators and a national monitoring framework made it impossible to quantitatively assess the impact of the response. This was because monitoring was programme/project based, focusing mostly on performance other than impact. To address noted gaps, the National Plan of Action to Combat Gender Based Violence in Malawi (2014-2020) proposed the establishment of a monitoring framework with well-defined indicators to track progress so that the Government of Malawi can have a more comprehensive GBV response.

Issue 8

28. With regards to prevalence of trafficking in persons, Malawi Police data in 2014 indicates an increase of 34 per cent in trafficking cases from 2013 statistics (*see figure below*). In 2014, out of 34 Police stations, trafficking cases were registered in 7 stations namely: Zomba, Phalombe, Blantyre, Mzuzu, Chitipa, Dedza and Mchinji. In the year 2014, a total number of 242 victims of trafficking were rescued, compared to 119 victims in 2013. Mchinji Police Station recorded 24 victims that reported at the formation after running away from hardships in Zambia. Members of the community along the Malawi/Zambia border are able to intervene where they suspect a child being trafficked; in most cases, however, perpetrators usually run away. The victims rescued in Chitipa were going to Tanzania while those rescued in Phalombe were going to Mozambique. This is enough evidence that external TIP is rampant in Malawi. In the year under review, 47 suspects were arrested whilst 32 suspects were arrested in the year 2013 representing a rise by 16 per cent. Out of 47 suspects arrested in the year 2014, Twenty (20) came from neighbouring countries such as Mozambique and Zambia. Out of 32 suspects arrested in 2013, a total of 15 suspects were prosecuted and convicted representing conviction rate of 47 per cent. In the year 2014 the rate of conviction was 51 per cent, thus an increase of 4 per cent. Information captured in the 2014 indicated improved performance in terms of rescuing victims and prosecution of suspects. There was commitment in mobilizing members of the community to fight against trafficking in persons.



	Victims	Arrested Suspects	Convictions
y2013	119	32	15
y2014	242	47	24

Source: Malawi Police, June 2015.

29. The Trafficking In Persons Act No.3 of 2015 was assented to by the State President on 10 April 2015. It was gazetted on 17 April 2015. It defines trafficking in persons as a means recruiting, transporting, transferring, harbouring m receiving or obtaining a person, within or beyond the territory of Malawi through threats, abductions, fraud or deception, abuse or threats of abuse of power or position, abuse or threats of position of vulnerability, abuse or threats of abuse of the law or legal process or giving or receiving of payments to obtain consent of a person having control of the trafficking person, for purposes of exploitation of that person.

30. The following are some of its key contents:

(a) The Act provides that trafficking in persons can be committed through:

- Using or threatening the trafficked person with force;
- Abducting the trafficked person;
- Deceiving the trafficked person;
- Giving or receiving a payment from a person who has control of the trafficked person;
- When a person who has some power is abusing or threatening to abuse that power;
- When a person who is vulnerable is abusing or threatening to abuse that vulnerability. For example, a vulnerable person may be a person who himself/herself is or was trafficked, and is acting under the instructions of someone to be involved in trafficking others as well;
- When a person is abusing or threatening to abuse the law.

(b) Further, the law considers the following to be serious forms of trafficking:

- Deceiving the court that one is adopting or wants to be a foster parent or guardian of a child, when in fact he or she is recruiting the child;

- When the accused person is a relative of the child;
- When the trafficked person has a mental disability;
- When the TIP is done by an organized criminal group;
- When the accused person is a public servant, religious leader, traditional leader or anyone who is discharging duties in an official capacity;
- When the accused person is an official who is giving the impression that his office allows him to commit the act, when he or she is in fact simply abusing his office;
- When the TIP is done in order to remove body parts or extract tissue or organs;
- If, during the TIP, the trafficked person dies; develops a mental problem; becomes pregnant or is forced to terminate a pregnancy; gets mutilated or disfigured; suffers permanent bodily injury or a medical condition due his situation; or is exposed to any other big health risk.

(c) Additionally, the law prescribes the punishment for trafficking in persons as follows:

- If any person is convicted TIP, he or she shall be imprisoned for 14 years, and a fine will not be considered;
- If the trafficked person is a child, the punishment is 21 years imprisonment, and a fine will not be considered;
- If a person is convicted of committing a serious form of TIP, he or she shall imprisoned for life and a fine will not be considered;
- The offence of TIP will be considered as an offence of dishonesty or moral turpitude as stipulated in the Constitution of the Republic of Malawi;
- A person convicted of the offence of TIP cannot work with children in any capacity for a period of 7 years after being convicted;
- If the one convicted of the offence was a person acting or claiming to act in an official capacity for an NGO or other establishment, the court may order the closure and de-registration of the institution;
- Any person who is convicted of intentionally benefitting or enabling another person to benefit from the exploitation of a trafficked person for any purpose shall be imprisoned for 5 years;
- An international transportation provider, his agents or any person that sells or issues tickets, boarding passes or similar travel documents who fails to confirm that each passenger to any destination into or outside Malawi has necessary travel documents (including a passport and visa) to enter any country where he/she is going or passing through shall commit an offence that is punishable by K5,000,000 and imprisonment for 5 years.

31. The Ministry of Home Affairs and Internal Security (MOHA) is mandated in the Act to train all officers in issues of TIP so that they can be able to identify and effectively respond to TIP Cases. They have been trained to identify and effectively respond to TIP cases. Further MOHA has developed a draft plan of action which prioritizes the training of relevant law enforcement officials, in particular, border

officials, and the dissemination of the new trafficking law to the wider public through the National Coordinating Committee, which will be set up as part of the measures to operationalize the TIP Act. While MOHA is responsible for the general enforcement of the Act, the Minister responsible for Gender and Social Welfare has the responsibility to designate any premises to be a shelter for the care and protection of trafficked persons; as well as make rules and regulations for the care and protection of trafficked persons at the shelter and for the administration of any shelter. The Minister will also appoint Public Officers who are responsible for social welfare to be protection officers and perform the duties of ensuring that trafficked persons (a) receive proper care, assistance and protection; and (b) are interviewed according to guidelines set in the law.

32. In order to strengthen the building of capacity to combat TIP effectively, the Trafficking In Persons Act has provided for the establishment of an Anti-Trafficking Fund, which shall be audited yearly. The fund shall consist of money from the national budget, grants and donations, money that may be realised from confiscating, seizing or selling property connected with TIP; and money from any source that will be approved by the Minister responsible for Home Affairs. The Fund shall be used to finance trainings of enforcement officers, protection officers and others that will implement the law. Additionally, it will be used for the provision of care, assistance and support to trafficked persons by: putting up their shelters; tracing their families and facilitating integration with the families where possible; repatriating trafficked persons to their homes or countries; and any activity that the National TIP Coordination Committee may recommend.

33. In relation to measures that are in place to address reported cases women and girls trafficked to neighbouring countries such as Mozambique or South Africa, the case of 13 trafficked children that was reported at Zomba Police Station provides a good illustration. In this case, the children were trafficked from Makwinja Village, T/A Chikowi in Zomba to Mozambique on 22 December 2014. The trafficker was a Zimbabwean who is a businessman based in Mozambique. The children who had no travel documents were intercepted by Mozambican Police officers. On 12 January 2015, the Malawi Government delegated three officers to negotiate possible repatriation of the children. The children were repatriated to Malawi on 14th January 2015 and were handed over to Zomba District Commissioner and Zomba Police Officer In-Charge for further action. A case of child trafficking was opened against Blessings Jambo who is answering other charges in Mozambique. Guardians of the children were charged with the offences of neglecting to provide necessary support to children contrary to Section 165 of the Penal Code. In addition to these specific efforts, as the next paragraph shows, there is inter-country cooperation to fight trafficking.

34. Cooperation and information exchange mechanisms have been established with border countries, and there is an annual SADC forum where countries meet to share TIP information. The police also use mechanisms such as SAPCO and Interpol. In addition, the Malawi Government listens to and takes measures to address trafficking related concerns from other countries.

Issue 9

35. With regards to the prevalence of prostitution, a comprehensive study that was conducted by Family Planning Association of Malawi in 2011 exposed that there are

about 20,000 sex workers in Malawi. Prostitution in itself is not a criminal act in Malawi, but the running of brothels is illegal. It is also illegal to use earnings from prostitution as a source of livelihood. MOGCDSW in collaboration with NGOs such as Theatre for a Change (TfaC) is working with women that are engaged in sex work to empower them in different aspects, including when they seek to abandon sex work. For example, TfaC has a programme whose main objective is to discourage sex workers from using sex work as a means of alleviating their poverty. The organisation trains the women in village and savings schemes and in business management, and also link to micro-financing organisations for loans. In addition, women are organized in small groups to participate in games of their choice such as netball, cookery etc. The programme includes advocacy at community using interactive and legislative theatre performances.

Issue 10

36. The Department of Human Resources, Management and Development (DHRMD), within the Office of the President and Cabinet, is taking active measures to raise awareness on the gender quota of 40:60 as provided for in the Gender Equality Act in respect to public service appointments. In 2014, it conducted sensitisation forums for the Civil Service Commission, as well as Appointments and Disciplinary Committees (which exist in each sector and are responsible for recruiting junior staff on behalf of the Civil Service Commission) to orient them on the quota position. Starting from July 2015, DHRMD will be implementing a Memorandum of Understanding (MoU) with UN Women, which, among other areas, involves building awareness about the Gender Equality Act for all the eight service commissions that are responsible for public appointments and recruitments (Teaching, Prison, Police, Health, Judicial, Parliamentary, Local Government, Civil Service Commissions). Through the MoU, DHRMD, which already has gender mainstreaming guidelines on human resources management and recruitment, will work towards translating relevant provisions of the Gender Equality Act into appropriate guidelines that can support the respective service commissions in their mandates. All human resources focal person will also be trained in gender mainstreaming.

37. In terms of improving women's participation in political affairs following their dismal performance in the 2014 Tripartite Elections, the Malawi Electoral Commission is leading a multi-stakeholder consultation process on several electoral reforms, and this agenda includes exploring how better participation of women in political offices can be achieved. While campaigns to promote women's participation in politics that have previously been led by the MoGCDSW, NGO GCN and UN Women have largely been once off activities during national election periods, strategies are being laid out to sustain these campaigns as a regular intervention. This will include working with structures of power and patriarchy starting from community levels. It will also involve advocating for the passing of proposed amendments to electoral laws by the Malawi Law Commission (i.e. the proposals were made by the Special Law Commission that was developing the law on gender equality in 2008) that every registered political party that is participating in an election should guarantee and maintain candidate lists in which there is a minimum of forty per cent and a maximum of sixty per cent representation of either sex. Any violations of this requirement will attract a fine of K5,000,000. NGOs such as the Centre for Multi-Party Democracy, which conducted a gender audit of

manifestos of political parties in 2014, also continue to encourage parties to have equal numbers of women as well as men in its various activities with political parties. Further action to strengthen women's political participation is focusing on building the capacity of existing female politicians. UN Women is currently working in partnership with the Parliamentary Women's Caucus, and is training all 32 female MPs in political leadership, budget processes, legislation etc. UN Women have signed an MOU with the National Initiative for Civic Education (NICE), that largest civic education body that has presence in all 28 districts in Malawi, to include materials on gender in their IEC materials for civic voter education. UN Women is further working closely with Local Government, and plans are being discussed to train all councillors in gender responsive political leadership at local levels.

Issue 11

38. In order to address discriminatory aspects of the laws on citizenship and bring them in line with the CEDAW and the Malawi Constitution, the Malawi Law Commission has put the review of the Citizenship Act as part of its 2015 work plan.

Issue 12

39. Enrolment data from the MDG Endline Survey (2014) indicates that the girl to boy ratio at primary school is at 1.01:1. On the other hand, enrolment ratios between girls and boys in secondary education stand at 1.22:1, with girls surpassing parity. The big challenge remains to improve the very low numbers of both girls and boys that are entering the secondary school system (18 per cent for girls and 14 per cent for boys). As for tertiary education, 2014/15 selection into the generic undergraduate programmes of two of the four public Universities show that University of Malawi and Lilongwe University of Agriculture and Natural Resources had surpassed the 40:60 quota that is set for tertiary education under the Gender Equality Act (with females constituting 48 per cent and 43 per cent of selected students respectively). Mzuzu University has met the quota in its 2015/16 intake, whereby the number of female students selected into its generic undergraduate programmes is at 40 per cent. The fourth University, Malawi University of Science and Technology is yet to make similar progress, registering a 26 per cent proportion of female undergraduate students in its 2014/15 intake.

40. In relation to measures that are being taken to address high rates of school drop-outs and the low retention of girls at both primary and secondary levels, the Ministry of Education adopted the National Girls Education Strategy (NGES, 2014-2018) in order to accelerate interventions aimed at strengthening girl education. Therefore, instead of developing a stand-alone Drop-Out Policy, this strategy is providing a comprehensive approach to addressing all issues affecting girl education. Further measures that the Ministry of Education is implementing in order to address drop-outs (and as part of the NGES) in collaboration with development partners include the Keeping Girls In School (funded by DFID and has components of bursary, Mother Groups, sanitation, reducing teenage pregnancies, combating child marriages etc.); Because I am A Girl (an initiative led by Plan aimed at supporting girls to get the education, skills and support they need to transform their lives and the world around them); the targeted school meals programme that is being implemented in some schools, and which includes the provision of take home food rations for girls in some areas etc. The provision of boarding facilities has

further helped girls to remain in school because many girls travel long distances to a nearby Community Day Secondary School (on average the CDSSs are 15km afar).

41. Steps have been taken to monitor the implementation of the Re-admission Policy aimed at the reintegration of teenage mothers into the formal school system, in order to determine its effectiveness and put corrective measures in place as necessary. Monitoring has been through both Ministry of Education and stakeholders such as Forum for African Women Educationalists in Malawi (FAWEMA) and Save the Children. Mother groups also help in monitoring, and they have helped to reduce stigma against girls that have returned to school by engaging with school structures and counselling concerned girls when there are challenges. Internally, the Ministry also monitors through the Education Management Information System (EMIS), whose data shows numbers of children that have been readmitted to school for specific reasons, as well as school dropout rates by reason. The results of the monitoring, which show that progress in achieving positive changes is slow, has prompted the review of the Readmission Policy. The review process has already started and is envisaged to be finalised by second quarter of the 2015/16 financial year (by December).

42. As part of measures to comprehensively address challenges related to girl education and to increase the national budget allocated to education, the Ministry of Education has introduced the School Improvement Plan/School Improvement Grant, which is providing funds directly to schools to meet their priorities. Its planners have also been trained in gender responsive budgeting. Furthermore, Gender Focal Points have been appointed at central, division and district levels. Government is also constructing boarding facilities for girls in the Community Day Secondary Schools. FAWEMA has also implemented a programme to increase sanitary facilities in schools with the help of Mother Groups.

43. The Ministry of Education is addressing school related violence against girls through several measures that are part of the implementation of the NGES. It has trained teacher counsellors in place, a Teachers' Code of Conduct whose existence is made aware to both teachers and learners; school rules and regulations are available in all schools and made known to both parents and leaners; and it has close linkages with community victim support units as well as health centres. Child Protection Committees and Mother Groups at school level are other critical structures where learners report issues of abuse or violence.

Issue 13

44. Data from the Ministry of Labour suggests that there is no wage difference between men and women. However, there is need for more research to be conducted in this area to substantiate anecdotal evidence, which suggests otherwise. The Ministry of Labour's data suggests that the big challenge is the large discrepancy between the number of women and men in high positions. More purposeful efforts have to be made to ensure that although promotions are advertised and that both men and women are free to compete, the preference of employers should not be skewed towards men.

45. With regards to the extent to which information on the extent to which unpaid care work as it relates to rural women is taken into account in statistical data on employment, the Ministry of Labour does not currently compile this information at national level, but is only available at district level.

46. The proposal of the Law Commission on the Development of the Gender Equality Statute to amend the Employment Act to introduce paternity leave has not yet been adopted. The Ministry of Labour is planning to first conduct a consultative process with the Employers and Workers Federation on the issue.

47. The Ministry of Labour has no documentation of cases of women losing their employment on account of maternity and/or prevented from accessing maternity benefits. The Ministry proceeds on the understanding that both private and public sectors are complying with the legal requirements for pregnant women to be provided a minimum of 8 weeks maternity leave and for their labour rights to be protected as prescribed by the law.

48. In respect to the protection of domestic workers, the Malawi Government in the Beijing + 20 Country Report (2015) notes that domestic workers (most of whom are women), are equally entitled to overtime allowance if they work long hours; leave days; a weekly day off; and severance pay at the end of the contract. With reference to some discriminatory practices that affect female police officers in relation to pregnancy and marriage, the police has just completed a "GBV and Gender Mainstreaming Survey in the Malawi Police Service" (2015) that was funded by UN Women. The survey has acknowledged that female police officers are given unequal treatment than their male counterparts when they are getting married to civilian men, or when they get pregnant during the probation period (pregnancy during the 2 years of probation is a disciplinary action warranting dismissal). The findings have been discussed by Commissioners, Heads of Branches and Officers In Charge, and the recommendations are expected to influence gender mainstreaming/ reforms in the noted areas in the police service.

49. In terms of measures to address sexual harassment in the workplace as prescribed in the Gender Equality Act, the Government conducted a sexual harassment survey in 6 pilot institutions with the aim of supporting these institutions to develop relevant policies in accordance with the Gender Equality Act. Also, issues of sexual harassment are being highlighted in dissemination exercises of the Act, and the simplified and translated versions of the Act will be widely disseminated both to the public and private sectors. In addition, in accordance with its mandate under the Act, the Ministry's comprehensive implementation programme for the Act will be informed by input from stakeholders in order to devise effective ways of creating awareness of sexual harassment and providing assistance and social support for victims of sexual harassment.

Issue 14

50. The process of reviewing the Public Health Act is on-going. Various practical measures are in place to reduce the high maternal mortality rates, in particular for rural women and adolescents. According to the MDG Endline Survey (2014), maternal mortality has reduced to 574 deaths/100,000 live births. The Malawi Government has been aggressively implementing the National Safe Motherhood Programme, which has put Traditional Leaders at the centre so that they can be champions at grassroots levels through chief's initiatives such as by-laws. The safe motherhood programme is also facilitating the creation of waiting homes and the provision of financial support through results based financing. The Ministry of Health has further instituted a Maternal Death Surveillance response and created capacity in all the three zonal levels in order to minimize incidences of maternal

deaths. Moreover, the Government is providing Comprehensive Emergency Obstetric & Newborn Care (CEmONC) Services and has set up functioning Basic Emergency Obstetric and Newborn Care (BEmONC) sites. Malawi has also made strides in the construction of maternity waiting homes (currently 12 in total) as one effort of promoting postnatal care services.

51. In Malawi, SRH education and services including contraceptives are available to all women and adolescents of childbearing age (15-49 year), although accessibility challenges remain especially for girls. The Ministry of Health recognizes that outstanding challenges can be addressed by synergizing policy positions of ministries that target young men and women, especially in order to consistency of responses between the health and education sectors in order to fill gaps that exist in relation to adolescent health, e.g. inadequate comprehensive sexuality education.

52. Accessibility to SRH and affordable contraceptives has been encouraged through government commitment and contribution of development partners. Family planning commodities prices have been reduced and made affordable for everybody. Government has been increasing the budget for family planning commodities and emergency contraceptive methods, so that there are adequate stocks throughout the year. In 2013/14 annual budget, the Ministry of Finance allocated MK 26 million (USD80,000) for family planning commodities, which was increased to MK 60million in 2014/15. It is expected that the 2015/16 budget for family planning will increase to MK 70 Million.

53. Government has established one stop Centres in the four central hospitals and 17 district hospitals and health centres to offer comprehensive services to survivors of Gender Based Violence. Victims of sexual violence are provided emergency contraceptives, in these one Stop Centres.

54. In order to ensure that a gender perspective is incorporated in the national disaster management and response, a Reproductive Health Committee on disaster has been put in place and it meets every month. The committee oversees the needs of women of childbearing age to ensure that commodities are available during the disaster times, and that the needs of adolescents are addressed.

55. Substantive progress has been achieved with regard to the review of the abortion law. Malawi Government started reviewing the law on abortion through a special commission of the Malawi Law Commission in 2013. In June 2014, the Special Commission on Review of Abortion laws announced through three regional workshops that they have recommended that current abortion laws should be repealed in the penal code. They further recommended that Malawi should have an independent abortion law expanding the grounds of abortion to include rape, incest, defilement, foetal impairment and where the pregnancy threatens the life, physical and mental health of the woman. The Special Commission is expected to hand over the report and bill to Ministry of Justice in 2015.

56. The HIV and AIDS Prevention and Management Bill is now before Cabinet. A Task force meeting that was held in 2013 recommended to isolate the HIV and AIDS Management Bill from the overarching Bill (then called the "HIV and AIDS (Prevention and Management) Bill"). This meant that all issues of HIV prevention would be dealt with separately at a later stage, and is currently not part of the Bill that has been submitted to Cabinet. The Government is fully aware that in a recent

High Court Judgement of 20 May 2015, the practice of mandatory HIV testing of women who are arrested for engaging in prostitution has been declared unlawful/unconstitutional.

Issue 15

57. The Customary Land Bill of 2013 waits to be re-submitted for debate in Parliament after the house referred it to a relevant Parliamentary Committee for further scrutiny. The Bill has ensured that a specific quota of positions in Land Committees is reserved for women (3 out of 7 committee members should be women). NGOs such as Action Aid have been working towards influencing greater promotion of women's land rights through the proposed law, including to ensure that affirmative action is taken in distributing land to applicants) in different areas so as to prioritise those who do not have (sufficient) land. inevitably mostly women.

58. In relation to measures that have been taken to integrate a gender perspective into food and nutrition security strategies and programmes (as recommended by the Special Rapporteur on the right to food), the Nutrition Policy has been revised and is at the draft stage. The new Nutrition policy has disaggregated data by sex and age. Adolescents, pregnant women and under five years old children have also been given special attention. On its part, the Ministry of Agriculture has main streamed Gender and Food and Nutrition in all its strategies programmes, from production to utilization. Agricultural subsidies are targeting the vulnerable groups, and the Ministry is working closely with the Ministry of Education to improve the school feeding programme as a way promoting nutrition and education. Deliberate effort is made to target both male and female beneficiaries in food and nutrition education.

59. Measures to eradicate adult female illiteracy in rural areas continue getting stronger. MoGCDSW is implementing vernacular literacy classes that are targeting very illiterate adults in all districts of the country, and this has reached 440,000 beneficiaries, 90 per cent of whom are women. These are functional literacy classes that help the adults to learn how to read and write while implementing development needs in health, nutrition, HIV prevention, GBV prevention, agriculture and business. English literacy classes have also being piloted in about 8 districts since 2010. In 2014, these were rolled out to all districts and there are about 12,600 learners (15 classes per district), 90 per cent of whom are men. As a way of taking more steps to motivate women to join these classes, MoGCDSW has introduced income-generating activities in English and post literacy classes. From July 2015, there will be a higher budgetary allocation from Treasury, and 22 districts will have 58 classes each. The Ministry provides teachers and learners guides, and has partnered with National Library Services to give post literacy materials through rural information centres that are in all 28 districts. Adult learners are linked to agribusinesses and Village Savings and Loans Schemes, sometimes even financial institutions after graduation. Some have even been able to integrate themselves into formal education, e.g. the case of a 70 year old in Mwanza now in secondary school.

60. The protection of elderly women that are subjected to torture and violence for being suspected of practicing witchcraft and teaching it to children is one key human rights issue in Malawi given the reality that witchcraft issues have a gender perspective. Following the Universal Periodic Review (UPR) on the human rights situation in Malawi on 1st November 2010, one of the recommendations that Malawi accepted was to comprehensively amend or repeal the Witchcraft Act of

1911. The work of the Law Commission to achieve this is advanced. Currently, the Police use the existing Witchcraft Act, which was intended to protect Malawians from harmful practices by making it an offence to accuse a person of witchcraft. Therefore, the police are involved in educating the public against condemning elderly women as witches; educating the public, especially chiefs, against punishing those suspected of witchcraft; providing counselling services to both victims that are accused of witchcraft and those making accusations; and prosecuting those accusing others of witchcraft, especially where such accusations have escalated into acts of violence against the suspected witch. The Malawi Human Rights Commission has also recorded inhumane and degrading treatment that elderly women are sometimes subjected to on allegations of practicing witchcraft, and has included this as a human rights violation in its 2013 Mid Term Progress Report on the Implementation of the United Nations Human Rights Council's UPR Recommendations to Malawi. The Association for Secular Humanism (ASH) in Malawi is a leading NGO efforts in condemning the discrimination of women thought to be practicing witchcraft, and lobbying for their greater social and legal protection.

Issue 16

61. Malawi Government is concerned with the increasing occurrence of ritual killings, disappearances and attempted trafficking of people with albinism. Consequently, MOGCDSW in collaboration with FEDOMA, and the Association of people living with Albinism, has been leading awareness rallies with traditional leaders and communities at large on the protection of persons living with albinism. Communities are being sensitised to keep an eye on persons with albinism to ensure that they are well protected, and to report threats and violations. Even people with albinism are being reached to sensitise them on skills that they can use to protect themselves, and to alert others when faced with danger. In particular, since attacks against people with albinism became prevalent in Machinga, Balaka and Zomba from January 2015, the Malawi Police has intensified sensitisations and is strengthening community policing structures. As of June 2015, the national police headquarters had conducted 4 meetings, while the Police Eastern Region had conducted 12 meetings in the concerned areas. At village level, these meetings have been organised through community policing forums. This has increased the rate of recoveries of abducted people with albinism, and the prosecution of offenders. The Minister of Gender, Children, Disability and Social Welfare has particularly condemned attacks and violations of the rights of people with albinism through the media.

Issue 17

62. Following shattering floods that affected 15 districts in Malawi from January 2015, there have been direct efforts to make the humanitarian response gender responsive. The MoGCDSW has been participating in the humanitarian partnership comprising stakeholders from the central and local government, UN agencies, private sector and civil society, and to work on the national disaster risk management and relief and recovery phases. It encouraged partners to collect sex and age disaggregated data in high affected Southern region and to put in place immediate measures to support women and girls in the emergency response. The Ministry co-chaired the cluster on Protection together with UNICEF and other

agencies, and also the sub-cluster on gender based violence. Together with UN Women the Ministry now aims to build the capacity of its staff and related stakeholders on Disaster Risk Management, Post Disaster Needs Assessment (PDNA), Disaster Recovery Framework (DRF), Camp Management, Gender Responsive Planning on Emergency, Protection, Sex and Age Disaggregated Data (SADD), Gender Based Violence, and Human Rights. Particular attention is being paid to increasing the capacity of the Ministry staff to assist disaster requirements to establish stand-by arrangements with various service providers such as women-friendly spaces and child-friendly spaces under the Victim Support Units being set up at the district levels. The Ministry is also involved in the World Bank's USD $80 million recovery budget for the flood of Malawi. It is putting forward a project under the Protection Cluster for the World Bank recovery framework. The Ministry would like to promote the needs of men and women, boys and girls (including the youth in the recovery phase). A review meeting of the whole response is being planned will be facilitated by the Inter Agency Standing Committee for the Coordination of Humanitarian Assistance.

63. Specific protection has been given to displaced women and girls from human rights violations and criminal acts. In camps and shelters, Government in collaboration with UN Women, UNFPA and other UN agencies allocated safe spaces for women and children. Pregnant and lactating mothers were also given special tents within the identified camps). Fifty tents were procured for this purpose. Women were provided hygiene kits comprising buckets, sanitary pads, toothbrush, tooth paste, 2 pieces of *cloth*, and body lotion. Women and girls were also supported with recreational and income generation activities (such as knitting/skill based activities) by UNFPA. Educational facilities in the camps were introduced for young children who cannot/could not go to school, as well as special classes for illiterate women. Further, there has been on-going GBV awareness. UNFPA incorporated Gender Based Violence preventive mechanisms in the disaster management to ensure that displaced women are protected against all forms of exploitation during the distribution of food and other items. In Nsanje, a UNFPA Gender Based Violence Consultant worked right at district level, and collaborated with cluster staff that included Social Welfare Officers that were being financially supported by UNFPA to monitor local GBV Committees that had been established. Additionally, Police have been supported by UNW to gain more capacity to patrol camps and make women feel safer; as well as for women to have an immediate avenue for reporting cases of GBV through VSUs that have been set up within some camps. If there are no such VSUs, police have been assisted to ensure that they facilitate victims' access to closest VSUs. As a civilian mechanism, UN Women set up legal representation and referral mechanisms through Women Legal Resources Centre (WOLREC) for women to have an 'unintimidating space' where they could go and complain. There are counsellors that are in the camps to support women on stigma and taboos that surround victims of violence, and who encourage the victims to report to the next level, where they have not done so. UN Women is supporting three pro-bono lawyers who take cases to court. For example in Nsanje a case of defilement case has been prosecuted.

64. Child marriage of displaced girls due to the floods is a common concern because the girls may be demotivated because either they are not in school, or are being taught by unqualified temporary teachers. UN agencies have shared this concern with the Ministry of Gender and Education so that the challenge should not

push them into child marriage. Still, as a direct measure for protecting displaced girls from child marriage, girls have been supported with temporary classroom/education sessions; as well as creating awareness of laws on child marriages, as well as the negative impacts of the practice. Information Education and Communication (IEC) materials continue to be provided to young people. Camp Protection Committees have been empowered to be high alert and to detect threats of child marriage, and to especially work with youths and adolescents. As a result, when two families in Nsanje wanted to marry off their 13 and 14 year old girls (in exchange for sugar and a few basic necessities etc.) in April 2015, there was a response from the Camp Protection Committees, who quickly reported the cases to the police. One family disappeared and the other was arrested and taken to court.

65. In order to facilitate women's participation in all aspects of natural disasters, including risk prevention, there are efforts to ensure that displaced women whose capacity has been developed through various camp committees should continue supporting their communities by sustaining the structures even beyond the immediate emergency phase. This will ensure that they are able to specifically contribute to recovery and all related efforts. There are ongoing and contingency plans at national, district and area levels to systematically address issues of disaster preparedness especially for pregnant women, lactating mothers, women of childbearing age, and also to include the prevention of HIV and GBV. In this regard, UNFPA's programme package will mainly include maternal health, SRHR information and services, and needs of young men and women in disaster times. UN-Women has also enlisted the support of a gender advisor for the humanitarian response, whose job is to ensure that gender is mainstreamed in the response, and women voices are coming out stronger in policies.

Issue 18

66. Women who are married religiously or under customary law can resort to civil courts for all matters relating to marriage, family relations and inheritance, more so now that the new Marriage Divorce and Family Relations Act No. 4 of 2015 has consolidated all issues of marriage, family relations and inheritance whether the marriage is religious, or customary.

67. As to the key contents of the Marriage, Divorce and Family Relations Act, the law is ensuring that Malawi has one law that applies to different types of marriage that exist in the country. Thus the law repeals several other laws related to marriage, divorce and maintenance that are scattered across several Acts. All provisions in the law will only apply to marriages that will be celebrated after the law has been assented to by the President and published in the Gazette. However, the provisions of the Act that specify rights and obligations of spouses will apply to all marriages that exist in Malawi. The prescribed legal age of marriage between two people of the opposite sex now stands at 18 years, subject to Section 22 of the Constitution (which states that children between 15 and 18 years can get married with the consent of their parents or guardians — the next step should therefore be to amend this Constitutional provision in order to make the marriage law strong). The marriage law continues to recognize four types of marriage namely, civil marriages, customary marriages, religious marriages and marriages by repute or permanent cohabitation. In respect of the latter, the law provides specific guidelines on how courts should discern the existence of the marriage. The law has introduced mechanisms to standardize the compulsory registration of marriages, and the

marriage registrars will be available even at community levels in the form of Traditional leaders and clerics. Further, the law creates uniform rights and obligations that the law is creating for all types of marriage. The law stipulates that a husband will commit the offence of rape if he is on separation from his wife and has sexual intercourse with her without her consent. It also provides for issues relating to maintenance during the subsistence of a marriage or after, as well as guidance on how issues of property distribution and child custody should be handled when a marriage no longer exists. Child betrothal is specifically prohibited under the Child Care, Protection and Justice Act No. 22 of 2010, but the marriage law treats any marriage that has been entered into by force or duress as void. MoGCDSW, which has already simplified the new law, will be implementing a dissemination plan to ensure that the Act is well known across Malawi.

68. Having been assented to by the State President on 10 April 2015 and gazetted on 17 April 2015, the process for the entry into force of the Marriage, Divorce and Family Relations Act is that the Minister of Gender, Children, Disability and Social Welfare will write to the Ministry of Justice to indicate the date of operation of the Act. To do this, officials from the MoGCDSW will first have to ensure that the powers vested in the Minister have been operationalized. This includes coming up with list of marriage registrars. A meeting between the Ministry and the Registrar General will soon take place in order to settle this task.

Issue 19

69. In 2015 MOGCDSW has oriented the media and paramount chiefs to inform the public and their subjects respectively on some of the provisions of the Act. This is in addition to the trainings and orientations made to 13 districts targeting the law enforcers. There are on-going NGO interventions to address the practice of property dispossession through awareness raising and support services and to ensure that women are informed about their rights under the new Act. Since the enactment of the Act, different NGOs that are coordinated by the NGO GCN have included in their implementation strategic plans IEC activities to address and inform women about their inheritance rights under the Act, although the project nature of such interventions affects nationwide coverage. In 2015, MoGCDSW has simplified the Act in order to address existing gaps related to its wide dissemination. The police continue to handle cases of property dispossession, although most of the time these are resolved through mediation and not prosecution.

Issue 20

70. There has been no progress with regard to acceptance of the amendment to article 20(1) of the Convention and the ratification of the Optional Protocol. However both matters are under consideration.